

# Order

Michigan Supreme Court  
Lansing, Michigan

December 28, 2005

Clifford W. Taylor,  
Chief Justice

127871

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

ROBERT THOMAS CROUCHMAN and  
SUGAR M. CROUCHMAN,  
Plaintiffs,

v

SC: 127871  
COA: 248419  
Wayne CC: 01-112063-NI

MOTOR CITY ELECTRIC COMPANY  
and CITIZENS INSURANCE COMPANY,  
Defendants,

and

KEVIN JAMES WIECZOREK,  
Defendant/Third-Party  
Plaintiff/Appellee,

v

AUTO-OWNERS INSURANCE COMPANY,  
a/k/a HOME-OWNERS INSURANCE  
COMPANY,  
Third-Party Defendant/Appellant.

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On December 1, 2005, the Court heard oral arguments on third-party defendant's application for leave to appeal the October 28, 2004 judgment of the Court of Appeals. On order of the Court, the application is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and the summary disposition orders of the Wayne Circuit Court, and REMAND this case to the Wayne Circuit Court for entry of an order granting third-party defendant's motion for summary disposition. The unambiguous language of §IV.1.a(1) of the insurance policy does not extend liability coverage to the vehicle the third-party plaintiff was operating. See *Farm Bureau Mutual Ins Co of Michigan v Nikkel*, 460 Mich 558 (1999). Coverage cannot be based on the language in §IV.1.c(2) of the policy, because the language of that provision excludes coverage and does not create coverage. See *Auto-Owners Ins Co v Harrington*, 455 Mich 377, 381-2 (1997).

CAVANAGH and KELLY, JJ., concur in the result only.



d1221

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 28, 2005

*Corbin R. Davis*

Clerk